VENSON LANE MYERS
P.O. BOX 5001 A3-114L
7018 BLAIR ROAD
CALIPATRIA STATE PRISON
CALIPATRIA CALIFORNIA
CDC NO. C-29600 IN PRO PER

Original

FILED
2008 SEP -3 AM 8:45
CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY RM DEPUTY

NUNC PRO TUNC
AUG 20 2008

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

VENSON LANE MYERS, Plaintiff, v. L.E. SCRIBNER, et al., Defendants.	08CV0117 W(WMC) Motion For Default Plaintiff, Objection To stay motion ex parte by Defendants.

To Judge: Hon. William McCurine, Jr.

Defendants: Builteman, Richey, and Scribner (Defendants) has sought application for stay, ex parte, Plaintiff being in in forma pauperis must prosecute to the best of his ability. This application of Defendants clearly states the desire and belief that their reason for the stay would terminate

Plaintiff right of redress. Defendants also anticipate filing responsive pleading by August 22, 2008.

Civil Trial Calendar Policies and Procedures
Rule 9.14 (B)(1) (B)(3)
B. Entry of Default

Plaintiff is required within Ten days after the Time for filing a responsive pleading To request the entry of a non-responding party's default.

(B)(3) Parties may set aside a default by filing a stipulation and proposed order. An answer or other responsive pleading must be attached To the stipulation.

Plaintiff request an entry of default against the named defendants in this action, for non compliance with the order filed May 28, 2008 08 CV 0117 W(WMC)

Filing answer To complaint within 20 days exclusive of the day of service, July 23rd counsel for defendant mailed Plaintiff a notice of appearance for, Defendants in complaint. 20 day after the 23rd of July would be the 15th of August 2008.

ordered granted ____ ordered denied ____

[Defendants must have Caused the Deprivation]

Attorney, counsel for defendant Scribner asserts the Eleventh Amendment immunity from money damages, in the ex parte motion, Plaintiff responsive response is supported also by exhibit A-1 and A-2.

[Exhibit A-1]

This Memorandum establishes Liability under 1983. Supervisory officials C.D.C Director, or the Prison Warden or Health Care Manager can be found Liable for money damages if the plaintiff can show they had sufficient personal involvement in the deprivation of right. Actual Knowledge, and official policy, or well known practice must be establish. See signature of L. Scribner on exhibits. Also [Exhibit A-2]. Court can also look for the dates that shows an on going practice, are to conclude that sufficient involvement supercede the defense of Eleventh Amendment

Plaintiff prays relief be granted of default and exparte request for stay of discovery be denied.

Plaintiff submits these motion for default and objection to stay of discovery, being in I.F.P. and responsible for prosecuting all matters.

I declare under penalty of perjury that the foregoing are correct to the best of my knowledge.

August 17th 2008
At Calipatria State Prison.

Signature Jenson Lane Myers
Jenson Lane Myers
C-29600 A3-114L I.F.P.

State of California | Department of Corrections and Rehabilitation

Memorandum

Exhibit A-1 JM

Date: December 12, 2007

To: L. SCRIBNER
Warden

Subject: **ASATRU/ODONIST WINTER SOLSTICE CELEBRATION**

The Asatru/Odonist Fellowship of Calipatria State Prison Facility A respectfully requests permission to assemble in celebration of the Winter Solstice. The service will commence on December 23, 2007, from 1230 – 1600 hours.

The Winter Solstice Celebration would entail first the Asatru/Odonist participating inmates from Facility A yard, to attend the Chapel Yuletide Ceremony.

RELEASE TO THE FACILITY A CHAPEL AND THEN TO THE FACILITY A DINING HALL:

Inmates participating in the Winter Solstice Celebration will be released by ducat and/or ducat list. There will be approximately fifteen (15) inmates from Facility A attending the ceremony. They will report to the Facility A Chapel. The Facility A Religious Services Sponsor will supervise the service in the small chapel classroom at 1230 to 1600 hours. Then at 1600 – 1700 hours, the participants will then proceed to the Facility A Dining Hall for their short line meal.

OUT-COUNT:

All participants will be identified by Custody Staff by way of a list generated by the Facility A Chapel Clerk. The designated Facility Officer will properly out-count the attending inmates at the dining room for the 1630 hours count. All participants will be under direct and constant supervision of Religious Services Sponsor in the chapel from 1230 – 1600 hours, then at 1600 – 1700 hours (or as count clears), under direct supervision of Custody Staff within the Dining Hall, as well as being escorted back to their housing units.

FOOD SERVICE:

The meal will consist of the regular dinner menu for that day, and will be served as a "short line" service at approximately 1600 hours.

Any questions regarding the proposal can be directed to A/W-Custody, J. Builteman, at extension 5327.

APPROVED / ~~DISAPPROVED~~:

R. MADDEN
Facility A Captain
Calipatria State Prison

APPROVED / ~~DISAPPROVED~~:

J. S. MITCHELL
Food Manager
Calipatria State Prison

APPROVED / DISAPPROVED:

T. OCHOA
Chief Deputy Warden
Calipatria State Prison

APPROVED / ~~DISAPPROVED~~:

G. J. JANDA
Associate Warden – A/B
Calipatria State Prison

APPROVED / DISAPPROVED:

12/13/07

J. BUILTEMAN
Associate Warden - Custody
Calipatria State Prison

APPROVED / ~~DISAPPROVED~~:

L. SCRIBNER
Warden
Calipatria State Prison

State of California

Department of Corrections and Rehabilitation

Memorandum

Date : 13 MAY 2008

Exhibit A-2 J.M.

To : L. SCRIBNER
Warden (A)

Subject: **ASATRU/ODONIST MIDSUMMER SOLSTICE CELEBRATION**

The Asatru/Odonist Fellowship of Calipatria State Prison Facility A respectfully requests to be allowed to assemble and celebrate this year's Midsummer/Summer Solstice on Thursday, June 19, 2008.

Services will begin at 1230 hours and will entail inmates of the Asatru/Odonist Faith from Facility A to assemble in the Chapel to attend the Midsummer/Summer Solstice Ceremony from 1230 to 1600 hours. Then at 1600 hours participants will then proceed to the Facility A Dining Hall to hold their ceremonial feast from 1600 to 1700 hours (or as count clears).

Out-Count

All participants will be identified by Custody Staff by way of a list generated by the Facility A Chapel Clerk. The designated Facility Officer will properly out-count the attending inmates at the dining room for the 1630 hours count. All participants will be under direct and constant supervision of the Religious Service Sponsor within the Chapel from 1230 to 1600 hours, then at 1600 to 1700 hours (or as count clears), under the direct supervision of Custody Staff within the Dining Hall, as well as being escorted back to their housing units.

Food Service

The Meal will consist of the regular dinner menu for that day, and will be served as a "short line" service at approximately 1600 hours.

Any questions regarding this proposal can be directed to J. M. Builteman, Associate Warden, Central Operations at extension 5327.

APPROVED/~~DIASPPROVED~~

R. MADDEN
Facility A Captain

APPROVED/~~DISAPPROVED~~

G. J. JANDA
Associate Warden – A/B

ASATRU/ODONIST
MIDSUMMER SOLSTICE CELEBRATION
Page 2

APPROVED/~~DISAPPROVED~~

NOTE: THIS GROUP SHOULD EAT @ 1600 IN ORDER TO CLEAR FOR FEEDING MAINLINE @ COUNT CLEAR.

5/16/08
J. S. MITCHELL
Food Manager

APPROVED/~~DISAPPROVED~~

5/13/08
J. M. BUILTEMAN
Associate Warden – Custody

APPROVED/DISAPPROVED

T. OCHOA
Chief Deputy Warden

APPROVED/~~DISAPPROVED~~

L. SCRIBNER
Warden (A)

5/15/08

VERIFICATION

STATE OF CALIFORNIA
COUNTY OF IMPERIAL

(C.C.P. SEC.446 & 201.5; 28 U.S.C. SEC. 1746)

I, Venson Lane Myers DECLARE UNDER PENALTY OF PERJURY THAT: I AM THE Plaintiff IN THE ABOVE ENTITLED ACTION; I HAVE READ THE FOREGOING DOCUMENTS AND KNOW THE CONTENTS THEREOF AND THE SAME IS TRUE OF MY OWN KNOWLEDGE, EXCEPT AS TO MATTERS STATED THEREIN UPON INFORMATION, AND BELIEF, AND AS TO THOSE MATTERS, I BELIEVE THEM TO BE TRUE.

EXECUTED THIS 18th DAY OF: August 2008 AT CALIPATRIA STATE PRISON, CALIPATRIA, CALIFORNIA #92233-5002

(SIGNATURE) Venson Lane Myers
(DECLARANT/PRISONER)

PROOF OF SERVICE BY MAIL

(C.C.P. SEC.1013 (a) & 2015.5; 28 U.S.C. SEC.1746)

I, Venson Lane Myers AM A RESIDENT OF CALIPATRIA STATE PRISON, IN THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA. I AM OVER THE AGE OF EIGHTEEN (18) YEARS OF AGE AND AM / NOT A PARTY OF THE ABOVE-ENTITLED ACTION. MY STATE PRISON ADDRESS IS: P.O. BOX 5002. CALIPATRIA, CALIFORNIA #92233-5002.

ON August 18th 2008 I SERVED THE FOREGOING: (1) dual motion for default and objection to exparte stay discovery motion by atty for defendant Scribner.

(SET FORTH EXACT TITLE OF DOCUMENTS SERVED)

ON THE PARTY (S) HEREIN BY PLACING A TRUE COPY (S) THEREOF, ENCLOSED IN A SEALED ENVELOPE (S), WITH POSTAGE THEREON FULLY PAID, IN THE UNITED STATES MAIL, IN A DEPOSIT BOX SO PROVIDED AT CALIPATRIA STATE PRISON, CALIPATRIA, CALIFORNIA #92233-5002.

Office of The Clerk
880 Front Street Suite 4290
San Diego, California
92101-8900
United States District Court
Southern District of California

Office of The Attorney General
110 West A Street Suite 1100
P.O. Box 85266
San Diego, California
92186-5266

THERE IS DELIVERY SERVICE BY UNITED STATES MAIL AT THE PLACE SO ADDRESSED, AND THERE IS REGULAR COMMUNICATION BY MAIL BETWEEN THE PLACE OF MAILING AND THE PLACE SO ADDRESSED.
I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

DATE: August 18th 2008

Venson Myers I.F.P
(DECLARANT/PRISONER)